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Paper Number 32

In re Application of:
Kucherlapati et al
Serial No. 08/031,801
Filed: March 15, 1993
For: **GENERATION OF
XENOGENEIC ANTIBODIES**

DECISION ON REQUEST

This is a decision on the request, filed August 9, 1996, to expedite the mailing of the formal Notice of Allowance and issuance of a patent in connection with the above-noted patent application.

On March 1, 1996, a letter was mailed to applicants which indicated that claim 101 was allowable but due to a potential interference, *ex parte* prosecution was suspended for a period of six months. On April 30, 1996, a Notice of Allowability was mailed to applicants along with an examiner's amendment which rendered all the pending claims, 83-97 and 101-103, allowable. However, due to the potential interference and the suspended status noted in the March 1, 1996 letter, no Notice of Allowance and Issue Fee Due was mailed. On August 9, 1996, the present request was filed.

Requester assumes that the potentially interfering application is 07/574,748, or a progeny thereof, which has an effective filing dated of August 29, 1990. Applicants apparently became aware of 07/574,748 from the publicly available priority documents referenced in PCT/US/91/06185, published as PCT WO 92/03918 on March 19, 1992. Based on this assumption, requester asserts that the present application is more than six months senior to that application by virtue of its January 12, 1990 effective filing date. Requester also points to MPEP §2303 which states that applications with filing dates more than six months apart will be placed into interference only "in exceptional situations, as determined and approved by the group director." Requester asserts that there are no circumstances as enumerated in MPEP §2303 which warrant the present situation as being exceptional, and therefore the application should be allowed as opposed to being placed in interference.

First it is noted that at this time it would be improper to reveal information about the interfering application. Therefore, requester's assumptions noted above cannot be confirmed or denied. Second, MPEP §2303 clearly indicates that for inventions of simple character, interference will not be declared if there is a difference of more than 3 months between the effective filing dates of the interfering applications and for inventions in other cases, interference will not be declared if